

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

June 27, 1990

MEMORANDUM

SUBJECT: Accidental Omission of 40 CFR 266.80 (b) (3) and (b) (4)

FROM: Dave Bussard, Director (OS-332)
Characterization and Assessment Division

TO: Vickie Reed (PM-223)
Regulation Management Division

This memorandum describes a misnumbering problem and accidental deletion of regulatory paragraphs in 40 CFR Part 266, Subpart G - "Spent Lead-Acid Batteries Being Reclaimed." Copies of the Federal Register notices that caused the misnumbering problem and deletion are attached.

For the last five years, Title 40 of the Code of Federal Regulations has been in error on Section 266.80 (b). The text is found in the January 4, 1985 Federal Register, page 667, under the heading "Subpart G - Spent Lead-Acid Batteries Being Reclaimed." Subpart G contains one section: "Applicability and Requirements," with two paragraphs: (a) and (b). Paragraph (a) has no subparagraphs, while paragraph (b) should have four subparagraphs. However, when the original January 4, 1985 text was published, the section number was misnumbered as §266.30. On the same page (January 4, 1985, p. 667) under "Subpart D - Hazardous Waste Burned for Energy Recovery" the correct section number §266.30 was already in use.

EPA attempted to correct the dual use of §266.30 in the August 20, 1985 Federal Register (50 FR 33543). The correction was explained on p. 33542, under I.D. - "Correction to Subpart G of Part 266," and correction #8 in that notice instructed readers to change the number under Subpart G to §266.80.

Apparently the order of the corrections caused confusion, because Correction #7 in that notice instructed readers to delete paragraphs (b) (3) and (b) (4) of Section 266.30 (b) (the preamble explaining this step is on p. 33542, under I.B. - Interim Exemption for Hazardous Waste-Derived Fuels from Iron and Steel Production).

Paragraphs (b) (3) and (b) (4) had been added in a previous technical correction (50 FR 14220, April 11, 1985). EPA did not intend for paragraphs (b) (3) and (b) (4) of the newly renumbered §266.80 to be deleted. However, the Office of the Federal Register apparently deleted the paragraphs (b) (3) and (b) (4) under both Sections 266.30 (the correct one and the renumbered one), instead of only the paragraphs (b) (3) and (b) (4) in the correct § 266.30.

Please have the OFR restore the paragraphs (b) (3) and (b) (4) from the January 4, 1985 Federal Register, under Subpart G - Spent Lead-Acid Batteries Being Reclaimed. Attached also is the correct text of 40 CFR Part 266, Subpart G, for the OFR's use.

Attachment

Correct text of 40 CFR Part 266, Subpart G:

Subpart G -- Spent Lead-Acid Batteries Being Reclaimed

§ 266.30 Applicability and Requirements.

(a) The regulations of this Subpart apply to persons who reclaim spent lead-acid batteries that are recyclable materials (“spent batteries”). Persons who generate, transport, or collect spent batteries, or who store spent batteries but do not reclaim them are not subject to regulation under Parts 262 through 266 or Part 270 or 124 of this chapter, and also are not subject to the requirements of section 3010 of RCRA.

(b) Owners or operators of facilities that store spent batteries before reclaiming them are subject to the following requirements.

(1) Notification requirements under section 3010 of RCRA;

(2) All applicable provisions in Subparts A, B (but not §264.13 (waste analysis)), C, D, E (but not § 264.71 or § 264.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of Part 264 of this chapter;

(3) All applicable provisions in Subparts A, B (but not § 265.13 (waste analysis)), C, D, E (but not § 265.71 and § 265.72 (dealing with use of the manifest and manifest discrepancies)), and F through L of Part 265 of this chapter;

(4) All applicable provisions in Parts 270 and 124 of this chapter.

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